

Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the Farm Credit Administration regulation at 5 CFR part 4101, which supplements the Executive Branch-wide Standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 985

[FV95-985-2FIR]

#### **Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1994-95 Marketing Year**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule increasing the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1994-95 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. The Committee recommended this rule to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the Far West spearmint oil market.

**EFFECTIVE DATE:** June 1, 1994, through May 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-8139; or Fax: (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the

handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah), hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This final rule finalizes an interim final rule that increased the quantity of Class 3 spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1994-95 marketing year, which ends on May 31, 1995. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own

behalf. Thus, both statutes have small entity orientation and compatibility.

There are 8 spearmint oil handlers subject to regulation under the order and approximately 260 producers of spearmint oil in the regulated production area. Of the 260 producers, approximately 160 producers hold Class 1 (Scotch) spearmint oil allotment base, and approximately 145 producers hold Class 3 (Native) spearmint oil allotment base. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. A minority of handlers and producers of Far West spearmint oil may be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity and whose income from farming operations are not exclusively dependent on the production of spearmint oil. The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the order). Spearmint oil is also produced in the Midwest. The production area covered by the order accounts for approximately 75 percent of the annual U.S. production of spearmint oil.

This final rule finalizes an interim final rule increasing the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 1994-95 marketing year, which ends on May 31, 1995. This rule increases the salable quantity from 1,287,680 pounds to 1,358,404 pounds and the allotment percentage from 66 percent to 70 percent for Native spearmint oil for the 1994-95 marketing year.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during a marketing year. The salable quantity calculated by the Committee is based on the estimated trade demand. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The initial salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1994-95 marketing year were recommended by the Committee at its October 6, 1993, meeting. The Committee recommended

salable quantities of 723,326 pounds and 897,388 pounds, and allotment percentages of 41 percent and 46 percent, respectively, for Scotch and Native spearmint oils. A proposed rule was published in the December 21, 1993, issue of the **Federal Register** (58 FR 67378). Comments on the proposed rule were solicited from interested persons until January 20, 1994. No comments were received. Accordingly, based upon analysis of available information, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1994-95 marketing year was published in the March 16, 1994, issue of the **Federal Register** (59 FR 12151).

At its June 14, 1994, teleconference meeting, the Committee recommended that the salable quantity and allotment percentage for Native spearmint oil for the 1994-95 marketing year be increased. The Committee recommended that the Native spearmint oil salable quantity be increased from 897,388 pounds to 1,092,577 pounds, and that the allotment percentage, based on a revised total allotment base of 1,951,032 pounds, be increased from 46 to 56 percent resulting in a 195,189 pound increase in the salable quantity.

An interim final rule was published in the August 26, 1994, **Federal Register** (59 FR 44028). Comments on the interim rule were solicited from interested persons until September 26, 1994. No comments were received.

At its October 5, 1994, meeting, the Committee recommended that the salable quantities for Scotch and Native spearmint oils for the 1994-95 marketing year be increased from 723,326 pounds to 811,516 pounds, and from 1,092,577 pounds to 1,287,680 pounds, respectively. Based on a revised total allotment base of 1,763,795 pounds, the Committee recommended that the allotment percentage for Scotch spearmint oil be increased from 41 percent to 46 percent, resulting in an 88,190 pound increase in the salable quantity. Further, based on the revised total allotment base published in the August 26, 1994, **Federal Register** (59 FR 44028), the Committee recommended that the allotment percentage for Native spearmint oil be increased from 56 percent to 66 percent, resulting in a 195,103 pound increase in the salable quantity.

An interim final rule amending the August 26, 1994, rule was published in the October 31, 1994, **Federal Register** (59 FR 54376). Comments on the interim rule were solicited from interested persons until November 30, 1994. No comments were received.

Accordingly, based upon an analysis of available information, a final rule finalizing the 1994-95 salable quantities and allotment percentages was published in the February 2, 1995, **Federal Register** (60 FR 6392).

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the order, at its February 22, 1995, meeting, the Committee recommended, with one member voting in opposition, that the salable quantity for Native spearmint oil for the 1994-95 marketing year be increased from 1,287,680 pounds to 1,358,404 pounds. The member voting in opposition favored the establishment of a lower salable quantity that would have resulted in a lower allotment percentage. Based on the revised total allotment base of 1,951,032 pounds, the allotment percentage for Native spearmint oil is increased from 66 percent to 70 percent, resulting in a 70,724 pound increase in the salable quantity.

#### Native Spearmint Oil Recommendations

- (1) Salable Quantity
  - October 6, 1993—897,388 pounds
  - June 14, 1994—1,092,577 pounds
  - October 5, 1994—1,287,680 pounds
  - February 22, 1995—1,358,404 pounds
- (2) Total Allotment Base
  - October 6, 1993—1,950,843 pounds
  - June 14, 1994—1,951,032 pounds
  - October 5, 1994—1,951,032 pounds
  - February 22, 1995—1,951,032 pounds
- (3) Allotment Percentage
  - October 6, 1993—46 percent
  - June 14, 1994—56 percent
  - October 5, 1994—66 percent
  - February 22, 1995—70 percent

In making this latest recommendation the Committee considered all available information on supply and demand.

As of February 22, 1995, the Committee reports that of the 1994-95 marketing year Scotch and Native spearmint oil salable quantities of 811,516 pounds and 1,287,680 pounds, respectively, 154,375 pounds and 70,840 pounds remained available for handling. Handlers have indicated that the available supply of Scotch spearmint oil is adequate to meet anticipated demand through May 31, 1995. However, handlers have indicated that demand for Native spearmint oil may be as high as 100,000 pounds for the remainder of this marketing year. This level of demand was not anticipated by the Committee when it made its initial recommendation for the establishment of the Scotch and Native spearmint oil salable quantities and allotment percentages for the 1994-95 marketing year, nor was it foreseen when the Committee made its June 14 and October 5, 1994, recommendations for increasing the Native spearmint oil

salable quantity and allotment percentage.

The recommended salable quantity of 1,358,404 pounds of Native spearmint oil (an increase of 70,724 pounds), combined with the June 1, 1994, carry-in of 19,139 pounds, results in a revised 1994-95 available supply of 1,377,543 pounds. The revised available supply of Native spearmint oil is approximately 300,000 pounds higher than the annual average of sales for the past five years. The Committee anticipates that foreseeable demand for Native spearmint oil will be adequately met for the remainder of the 1994-95 marketing year.

The Department, based on its analysis of available information, has determined that an allotment percentage of 70 percent should be established for Native spearmint oil for the 1994-95 marketing year. This percentage will provide an increased salable quantity of 1,358,404 pounds of Native spearmint oil.

An interim final rule concerning this action was issued on March 31, 1995, and was published in the **Federal Register** (60 FR 17434). Comments were solicited from interested persons through May 8, 1995. No comments were received.

Based on available information, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including that contained in the prior proposed, final, and interim final rules in connection with the establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1994-95 marketing year, the Committee's recommendation and other available information, it is found that to revise § 985.213 (60 FR 6392) to change the salable quantity and allotment percentage for Native spearmint oil, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This final rule finalizes an interim final rule increasing the quantity of Native spearmint oil that may be marketed during the marketing year beginning on June 1, 1994; and (2) Handlers are aware of this rule which was recommended by the Committee at

a public meeting and published in the **Federal Register** as an interim final rule with a 30-day comment period.

#### List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

#### PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

Accordingly, the interim final rule amending 7 CFR part 985 which was published at 60 FR 17434 on April 6, 1995, is adopted as a final rule without change.

Dated: June 6, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*

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#### 7 CFR Part 985

[FV95-985-3FIR]

#### Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1995-96 Marketing Year

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that increased the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1995-96 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. The Committee recommended this rule to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the Far West spearmint oil market.

**EFFECTIVE DATE:** Effective on July 12, 1995.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503)

326-2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, D.C. 20090-6456; telephone: (202) 720-8139; or Fax: (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah), hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This final rule finalizes an interim final rule that increased the quantity of Class 3 spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1995-96 marketing year, which ends on May 31, 1996. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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This final rule finalizes an interim final rule that increased the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 1995-96 marketing year, which ends on May 31, 1996. The interim final rule increased the salable quantity from 906,449 pounds to 1,004,976 pounds and the allotment percentage from 46 percent to 51 percent for Native spearmint oil for the 1995-96 marketing year.

The interim final rule was issued on April 7, 1995, and published in the **Federal Register** (60 FR 18950, April 14, 1995), with an effective date of April 14, 1995. That rule amended section 985.214 of the rules and regulations in effect under the order. The rule provided a 30-day comment period which ended May 15, 1995. No comments were received.